

## **REMARKS**

Please reconsider the application in view of the above amendments and the following remarks. Applicant thanks the Examiner for carefully considering this application.

### **I. Status of Claims**

Claims 1-40 are pending in this application. Claims 1, 15, 21, and 28 are independent. The remaining claims depend, directly or indirectly, from claims 1, 15, 21, and 28.

### **II. Rejection(s) under 35 U.S.C § 103**

#### **REQUIREMENTS FOR AN OBVIOUSNESS REJECTION UNDER 35 U.S.C. § 103**

In order to sustain a rejection under 35 USC§ 103, the prior art must teach all the elements of the claimed invention. In addition, there is a requirement that there should be a teaching or suggestion in the prior art for such a combination.

"The factual inquiry whether to combine references must be thorough and searching." It must be based on objective evidence of record. This precedent has been reinforced in myriad decisions, and cannot be dispensed with. See, e.g., Brown & Williamson Tobacco Corp. v. Philip Morris Inc., 229 F.3d 1120, 1124-25, 56 USPQ2d 1456, 1459 (Fed. Cir. 2000) ("a showing of a suggestion, teaching, or motivation to combine the prior art references is an 'essential component of an obviousness holding'" (quoting C.R. Bard, Inc., v. M3 Systems, Inc., 157 F.3d 1340, 1352, 48 USPQ2d 1225, 1232 (Fed. Cir. 1998)); In re Dembiczak, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999) ("Our case law makes clear that the best defense against the subtle but

powerful attraction of a hindsight-based obviousness analysis is rigorous application of the requirement for a showing of the teaching or motivation to combine prior art references."); *In re Dance*, 160 F.3d 1339, 1343, 48 USPQ2d 1635, 1637 (Fed. Cir. 1998) (there must be some motivation, suggestion, or teaching of the desirability of making the specific combination that was made by the applicant); *In re Fine*, 837 F.2d 1071, 1075, 5 USPQ2d 1596, 1600 (Fed. Cir. 1988) ("teachings of references can be combined only if there is some suggestion or incentive to do so.") (emphasis in original) (quoting *ACS Hosp. Sys., Inc. v. Montefiore Hosp.*, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984)).

The need for specificity pervades this authority. See, e.g., *In re Kotzab*, 217 F.3d 1365, 1371, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000) ("particular findings must be made as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed"); *In re Rouffet*, 149 F.3d 1350, 1359, 47 USPQ2d 1453, 1459 (Fed. Cir. 1998) ("even when the level of skill in the art is high, the Board must identify specifically the principle, known to one of ordinary skill, that suggests the claimed combination. In other words, the Board must explain the reasons one of ordinary skill in the art would have been motivated to select the references and to combine them to render the claimed invention obvious."); *In re Fritch*, 972 F.2d 1260, 1265, 23 USPQ2d 1780, 1783 (Fed. Cir. 1992) (the examiner can satisfy the burden of showing obviousness of the combination "only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references"). *In re Lee*, 61 U.S.P.Q.2D 1430, (Fed. Circuit, 2002).

In the absence of a specific teaching or suggestion to combine the references, one later court held that:

Even if all its limitations could be found in the total set of elements contained in the prior art references, a claimed invention would not be obvious without a demonstration of the existence of a motivation to combine those references at the time of the invention. See Ecolochem, Inc. v. S. Cal. Edison Co., 227 F.3d 1361, 1371 (Fed. Cir. 2000). This requirement prevents a court from labeling as obvious in hindsight a solution that was not obvious to one of ordinary skill at the time of the invention. See id.

The district court held that "at the time the '575 patent was invented, there was no suggestion, teaching, or motivation to combine Udstad with Wagner." We disagree. CPR relied primarily on two sources pre-dating the application for the '575 patent to demonstrate the requisite motivation to combine: the "Lund drawing" and the "Prichard disclosure." Although the district court discussed both, the district court's focus seems to have centered on whether either had been disseminated to a sufficiently broad public so as to give either the status of a prior art reference. Yet, the prior-art status of the Prichard disclosure and the Lund drawing is not dispositive. ... [the] motivation to combine need not be found in prior art references, but equally can be found "in the knowledge generally available to one of ordinary skill in the art." (citing) In re Jones, 958 F.2d 347, 351 (Fed. Cir. 1992)

*National Steel Car, Ltd. vs. Canadian Pacific Railway Ltd.*, 69 U.S.P.Q.2D (BNA) 1641, (Fed. Cir. 2004, rehearing denied, rehearing denied en banc).

The case cited (*In re Jones*) specifically held that:

"Before the PTO may combine the disclosures of two or more prior art references in order to establish *prima facie* obviousness, there must be some suggestion for doing so, found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art....

... Conspicuously missing from this record is any *evidence*, other than the PTO's speculation (if it be called evidence) that one of ordinary skill in the

herbicidal art would have been motivated to make the modifications of the prior art salts necessary to arrive at the claimed 2-(2'-aminoethoxy)ethanol salt." *In re Jones*, 21 U.S.P.Q.2D 1941 (Fed. Circuit, 1992)

REJECTION OF CLAIMS 1-7 AND 15-27- CWENAR IN VIEW OF ARMITAGE

Claims 1-7 and 15-27 were rejected under 35 U.S.C. § 103 as obvious over U.S. Patent No. 5,893,079 issued to Cwenar in view of U.S. Patent No. 5,475,589 issued to Armitage. This rejection is respectfully traversed.

The present invention defined in claim 1 recites "a data repository storing related hydrocarbon-producing portfolio data tied to a key parameter field." Claim 1 further recites "at least one application server to provide a plurality of different applications to a plurality of users." At least one of the plurality of the different applications generates "at least some related *hydrocarbon-producing portfolio data* having the key parameter field, wherein the data repository can be updated with the related *hydrocarbon-producing portfolio data generated by each of the plurality of different applications*."

Cwenar discloses a data management system that compiles data from outside non-user sources into a database that is accessible through a user interface. The database functions include storing, retrieving, and manipulating data (column 5, lines 22-26). The system disclosed by Cwenar is particularly relevant to investment data, which is the focus in the description, because financial data is similar in format. Data enter the database from external *non-user* sources (Figure 1, column 4, lines 51-65).

The database in Cwenar is updated by the external sources, and not by users and a plurality of different programs, as recited in the claims. Cwenar is clear in only allowing outside non-user sources to provide new data and update old data stored in the database (Figure 1, column 4, lines 51-65). Exporting data to user programs is accomplished

through the user interface (column 7, lines 21-35). This is not equivalent to “updating any of the stored hydrocarbon-producing portfolio data having the key parameter field when ones of the plurality of applications modify any of the stored hydrocarbon-producing portfolio data having the key parameter field,” as recited in independent claims 1, 15, and 21. The present invention provides a system that allows multiple users using different programs for different tasks to update each other in a near real time environment. Cwenar does not accomplish this by merely providing data export functions to users.

The Examiner has asserted that Armitage discloses a system and method for translating seismic data including the productivity of hydrocarbon exploration data information (citing column 5, lines 7-22), and that the data is collected from different programs (citing column 3, lines 13-40). The Applicant does not contend that the present invention is novel in using computer programs for hydrocarbon exploration data. What the Applicant asserts is that the various computer programs used by various group members for various hydrocarbon portfolio related tasks are not unified in an efficient manner. The Applicant proposes improving data communication with the hydrocarbon portfolio group by using a data repository and application server that updates portions of data related to a key parameter field as they are modified by the different programs. The claimed invention provides other users working on a different task on the same project with the data relevant to their tasks. The invention disclosed by Armitage would be an example of the sort of independent hydrocarbon production program that may be one of the plurality of different programs in embodiments of the claimed invention.

The Examiner cited column 3, lines 13-40 in Armitage as evidence that Armitage

uses data collected from different programs. The Applicant respectfully notes that the cited portion only discusses a method for reducing the occurrence of dry holes while drilling for hydrocarbons. Armitage does disclose that some of its analyzed data comes from other sources (column 30, lines 53-62). However, this data is manually entered after having performed the necessary analysis. This inability to communicate data between analysis tools may be addressed using a system in accordance with an embodiment of the claimed invention.

In view of the above, Cwenar and Armitage, whether considered separately or in combination, fail to show or suggest *all of the limitations* of the present invention as recited in claims 1, 15, and 21. Thus, in the present case, even the first requirement for sustaining an obviousness rejection is not met. Applicant further notes that there is clearly no teaching in Cwenar, the later of the two references cited by the Examiner, to combine the teachings therein with those of Armitage. Applicant respectfully submits that the Examiner has failed to meet the standards of the *Lee* court.

Even by the somewhat relaxed standards of the *National Steel* court and the *Jones* court, all we have in the present instance is an assertion by the Examiner that one skilled in the art of Cwenar would be motivated to combine the teachings therein with those of Armitage.

Applicant notes that the Cwenar reference has the following classifications:

CLASS 705 DATA PROCESSING: FINANCIAL, BUSINESS PRACTICE,  
MANAGEMENT-

35. Finance (e.g., banking, investment or credit)

36. Portfolio selection, planning or analysis

37. Trading, matching, or bidding

The Armitage reference has been classified in 364/421, 73/152, 364/422, 367/38 and 367/59. The primary classification of the Armitage patent is in 702/13, which is for Data Processing, Measuring, Calibrating or testing, with a subclass of hydrocarbon prospecting. Applicant notes that class 367 deals with COMMUNICATIONS, ELECTRICAL: ACOUSTIC WAVE SYSTEMS and respectfully submits that one skilled in the art of financial (specifically, financial instruments) data management would not be motivated to look in the fields of communications, electrical and acoustic wave systems or in hydrocarbon prospecting. Accordingly, Applicant further submits that the Examiner has failed to establish a prima facie case of obviousness.

Thus, the claims are patentable over Cwenar and Armitage. Dependent claims are allowable for at least the same reasons.

With reference to claim 4, Applicant draws the attention of the Examiner to the attached Declaration of Jerry C. Phillips ("the Declaration"). As noted therein in §§ 6-7, the teachings of Armitage are limited to the field of Geoscience, so that one of the limitations of claim 4 is not met. Accordingly, withdrawal of this rejection is respectfully requested.

REJECTION OF CLAIMS 8-11 - CWENAR IN VIEW OF ARMITAGE AND DEMBO

Claims 8-11 were rejected under 35 U.S.C. § 103 as obvious over Cwenar in view of Armitage, and further in view of U.S. Patent No. 5,148,365 issued to Dembo. This rejection is respectfully traversed.

As discussed above, there is no motivation to combine Cwenar with Armitage. There is nothing in Dembo that would provide motivation for one of ordinary skill in the

art to combine Cwenar, Armitage, and Dembo.

Further, as asserted in the previous response, Dembo is non-analogous art. The Applicant respectfully notes that the Examiner did not dispute this assertion. The Dembo reference is neither in the field of the Applicant's endeavor nor reasonably pertinent to the problem with which the Applicant is concerned. Dembo provides a mathematical model to optimize scenarios with changing probabilities. The special mathematics in Dembo are not in the same field as the present invention. Additionally, one of ordinary skill in the art would not look to the mathematics taught in Dembo for a solution to the problems addressed by the present invention. Therefore, the Dembo reference may not properly be combined with the Cwenar and Armitage under 35 U.S.C. § 103.

Additionally, Dembo fails to show or suggest the present invention as claimed. As described above with respect to independent claims 1, 15, and 21, Cwenar and Armitage fail to show or suggest the invention as claimed in claims 1, 15, and 21. Further, Dembo fails to provide that which Cwenar and Armitage lack with respect to the present invention, whether considered separately or in combination. Dembo discloses a mathematical model to optimize scenarios with changing probabilities. Dembo does not disclose any of the elements present in claim 1. Thus, claims 8-11, which depend from claim 1, are patentable over Cwenar in view of Armitage and Dembo. Accordingly, withdrawal of this rejection is respectfully requested.

REJECTION OF CLAIM 12- CWENAR IN VIEW OF ARMITAGE AND O'SHAUGHNESSY

Claim 12 was rejected under 35 U.S.C. § 103 as obvious over Cwenar in view of Armitage, and further in view of U.S. Patent No. 6,484,151 B1 issued to O'Shaughnessy. This rejection is respectfully traversed.



The O'Shaughnessy reference is neither in the field of the Applicant's endeavor nor reasonably pertinent to the problem with which the Applicant is concerned. O'Shaughnessy provides a system and method for selecting and purchasing stocks. Selecting and purchasing stocks is not in the same field of endeavor as the present invention. Additionally, one of ordinary skill in the art of managing hydrocarbon producing assets would not look to the stock trading programmed disclosed in O'Shaughnessy for a solution to the problems addressed by the present invention. Therefore, O'Shaughnessy may not properly be combined with Armitage and Cwenar under 35 U.S.C. § 103.

Furthermore, there would have been no motivation for one of ordinary skill in the art to combine O'Shaughnessy with Cwenar and Armitage. O'Shaughnessy does not show or suggest to one of ordinary skill in the art that it could potentially be applied to the subject matter of the present invention. Therefore, there would have been no motivation to combine the cited references as proposed by the Examiner.

Further, assuming *arguendo* that motivation to combine the references could be found, the combinations still fails to show or suggest the present invention. As described above with respect to independent claim 1, Cwenar and Armitage fail to show or suggest the present invention as claimed. Further, O'Shaughnessy fails to provide that which Cwenar and Armitage lack with respect to the present invention, whether considered separately or in combination. O'Shaughnessy discloses a system intended to aid in selecting and purchasing stocks for investment. O'Shaughnessy does not disclose any of the elements present in claim 1. Thus, claim 12, which depends from claim 1, is patentable over Cwenar in view of Armitage and O'Shaughnessy. Accordingly,

withdrawal of this rejection is respectfully requested.

REJECTION OF CLAIMS 13 AND 14- CWENAR IN VIEW OF ARMITAGE AND LU

Claims 13 and 14 were rejected under 35 U.S.C. § 103 as obvious over Cwenar in view of Armitage, and further in view of U.S. Patent No. 6,373,489 B1 issued to Lu *et al.* This rejection is respectfully traversed.

As described above with respect to independent claim 1, Cwenar and Armitage may not properly be combined, and even when combined, fail to show or suggest the present invention as claimed. Further, Lu fails to provide that which Cwenar and Armitage lack with respect to the present invention, whether considered separately or in combination. Lu discloses a computer system for visualizing geological data in a geoscience model. Lu does not disclose any of the elements present in claim 1. Thus, claims 13-14, which depends from claim 1, are patentable over Cwenar in view of Armitage and Lu.

With reference to claim 14, Applicant draws the attention of the Examiner to the attached Declaration of Jerry C. Phillips ("the Declaration"). As noted therein in §§ 6-7, the teachings of Armitage are limited to the field of Geoscience, so that one of the limitations of claim 14 is not met. Applicant further notes that Lu merely teaches that a model can be used by a petroleum engineer and does not teach how that is relevant to the present invention. Accordingly, withdrawal of this rejection is respectfully requested.

REJECTION OF CLAIMS 28-40- LU IN VIEW OF ARMITAGE

Claims 28-40 were rejected under 35 U.S.C. § 103 as obvious over Lu in view of Armitage. This rejection is respectfully traversed.

As a general note on the Lu and Armitage references, both references apply to

specific programs used individually without reference to team members, or updating corresponding data *automatically* in other applications based on data generated using at least one other application. None of the cited portions by the Examiner have indicated otherwise. In particular, the Examiner cited Lu as disclosing “that the notifying at least one of the asset team members that corresponding data used by one of the applications used by the at least one asset team member have been updated by the operation of the other one of the applications used by at least one other asset team member (citing column 6, lines 16-18, and column 25, lines 34-37, Lu).” The cited portion of column 6 merely discloses incrementally updating the particular model. This occurs within a single program by a single user. The cited portion of column 25 merely discloses updating another modeling tool (SIGMA) automatically with the models generated by the invention disclosed by Lu. Thus, Lu does not show or suggest team members using another program being automatically updated by the work performed by another team member using another program.

The Applicant respectfully notes that the Examiner has provided no acknowledgement of the Applicant’s arguments in the previous response concerning the combination of Lu in view of Armitage. The Applicant requests that the Examiner respond to the previous arguments which are repeated below with minor modifications. Of claims 28-40, claim 28 is independent. Claims 29-40 depend either directly or indirectly from claim 28. Claim 28 recites a method for managing a hydrocarbon-producing portfolio. The method comprises a plurality of asset members with varying roles using a variety of different applications corresponding to their respective roles. The possible asset team members include a geoscientist, a landman, a reservoir engineer, a

regulatory compliance administrator, a right-of-way administrator, a drilling engineer, a completion engineer, a finance analyst, a field operator, a sales and marketing representative, and a portfolio manager. The corresponding data from any given application used by the various asset team members can be automatically updated and can be used by the other applications.

In contrast, Lu discloses a method for building and visualizing geometry models. The visualization is meant to be particularly suited for modeling in the geosciences. The Examiner asserts that Lu discloses a plurality of asset team members comprising geologists, geophysicists, and petroleum engineers (col. 1, lines 14-21). The Applicant respectfully disagrees. The cited text is merely claiming that the visualization method of the invention would have value to geologists and geophysicists (collectively considered to be geoscientists), and petroleum engineers. Lu is silent on those people being team members in any form. Lu does not teach that the petroleum engineer has any input to the database that is the subject of the present invention. Additionally, Lu does not mention team members outside of the geosciences such as a regulatory compliance administrator, a right-of-way administrator, a finance analyst, or a sales and marketing representative.

Further, Lu is silent on there being separate applications employed by team members with various roles. Lu only discloses a single visualization tool that may be useful for those in the geosciences. Further, Lu is silent on any data corresponding to other applications being generated. Instead, Lu only speaks of the single visualization model generated by the method disclosed in Lu.

Armitage fails to provide that which Lu lacks with respect to the present invention as claimed, whether considered separately or in combination. Thus, claim 28 is

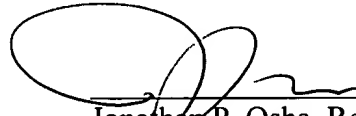
patentable over Lu and Armitage. Claims 29-40, which depend on claim 28, are allowable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

### III. Conclusion

Applicant believes this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 06558/007002).

Date: 7/6/04

Respectfully submitted,



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